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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

CORY ALLEN FLENORY,

Defendant and Appellant.

B269715

(Los Angeles County
Super. Ct. No. PA080684)

APPEAL from a judgment of the Superior Court of Los Angeles County, Hilleri G. Merritt, Judge. Affirmed as modified.

Paul Kleven, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In August 2014, the District Attorney in Los Angeles County charged defendant Cory Flenory (defendant) in a five-count information with mayhem (count 1), two counts of assault with a deadly weapon (counts 2 and 3), misdemeanor vandalism (count 4), and inflicting corporal injury on a spouse in violation of Penal Code section 273.5(a) (count 5). Various enhancements were also alleged. As testimony at defendant's preliminary hearing established, the charges stemmed from an incident in which defendant, while driving his vehicle, fired a BB gun at two occupants of a nearby car; the BB gun shattered the window of the nearby car, and glass from the window seriously injured the female passenger's right eye, depriving her of almost all ability to see with that eye despite several surgeries. In addition, two weeks before that incident, defendant had engaged in a violent altercation with his wife.

Pursuant to an agreement with the People, defendant pled no contest to the charges in counts 1, 3, and 5 (mayhem, assault with a deadly weapon as to one of the two victims in the car, and injuring a spouse). Defendant also admitted certain of the alleged enhancements were true. For its part, the prosecution agreed to strike two prior serious and/or violent felony convictions that would have otherwise called for the imposition of an indeterminate sentence, and to dismiss the remaining counts of the information. When entering his no contest pleas in court, defendant agreed he was pleading no contest because that is what he wanted to do after discussing the case with his attorney; defendant also certified, in signing a written plea advisement form, that the nature of the charges and possible defenses had been explained to him.

The trial court imposed a 26-year prison sentence, as the parties had agreed. Specifically, on count 1 the court imposed the upper term of 8 years, doubled pursuant to Penal Code sections 667(b)-(i) and 1170.12, plus an additional year pursuant to the allegation that defendant used a deadly or dangerous weapon in the commission of the crime within the meaning of Penal Code 12022(b)(1), and an additional five years pursuant to Penal Code section 667(a)(1); on count 3, the court imposed two years in prison, or one-third the mid-term doubled; on count 5, the court imposed another two years in prison, also one-third the mid-term doubled.¹ The court gave defendant 688 days of credit toward his sentence (598 days actual and 90 days good time/work time) and imposed requisite fines and fees.

Defendant thereafter filed a notice of appeal and request for a certificate of probable cause, arguing his trial court attorneys had provided constitutionally deficient assistance. The trial court granted the request for a certificate of probable cause.

On appeal, this court appointed counsel to represent defendant. After examining the record, counsel filed an opening brief raising no issues. On August 10, 2016, this court advised defendant he had 30 days to personally submit any contentions or issues he wished us to consider. We received no response.

We have examined the record provided to us, including as to the issues raised in defendant's request for a certificate of probable cause, and we are satisfied defendant's attorney on

¹ At the same sentencing hearing, the court also sentenced defendant in a separate case (trial court number BA439422) and ordered that the 8-month sentence it imposed in that case would run consecutive and subordinate to the sentence in this case.

appeal has complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-82; *People v. Kelly* (2006) 40 Cal.4th 106, 122-24; *People v. Wende* (1979) 25 Cal.3d 436, 441; see also *People v. Mendoza Tello* (1997) 15 Cal.4th 264, 266-67.) We have discovered a minor error in the abstract of judgment, however: it incorrectly states an enhancement was imposed under Penal Code section 12022.7(b)(1), rather than the correct statutory citation, Penal Code section 12022(b)(1). We will order the error corrected.

DISPOSITION

The abstract of judgment is ordered corrected as specified in this opinion. The clerk of the superior court shall prepare an amended abstract of judgment reflecting the correction and deliver a copy to the Department of Corrections and Rehabilitation. The judgment of conviction is affirmed as so modified.

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BAKER, J.

We concur:

TURNER, P.J.

KRIEGLER, J.